

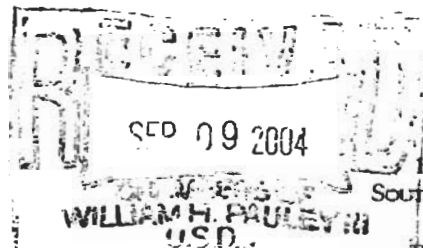
**MEMO ENDORSED**

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September 9, 2004

**Via Facsimile (212) 805-6390**  
 Honorable Judge William H. Pauley III  
 United States District Court  
 Southern District of New York  
 United States District Courthouse  
 500 Pearl Street, Room 2210  
 New York, NY 10007-1581

**USDC SDNY  
 DOCUMENT  
 ELECTRONICALLY FILED  
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 DATE FILED: 9/16/04**

**Re: Transfield ER Cape Limited v. Fuchuen Dihai Shipping Co.**  
**Civil Case No.: 04 CV 4395 (WHP)(THK)**  
**Our ref.: 04-13-0996**

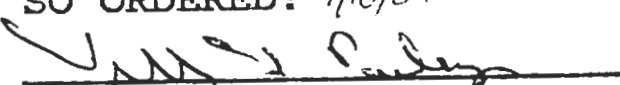
Dear Hon. Judge Pauley:

We represent the interests of the Plaintiff, Transfield ER Cape Limited in the above captioned action. This matter is set for a scheduling and case management conference before your Honor tomorrow, Friday, September 10 at 9:30 a.m. However, jurisdiction has not been obtained over the Defendant as none of its property was located by any of the garnishee banks in New York in response to service of the Maritime Writ of Attachment.

Based on the foregoing, we have been instructed to present the court with a voluntary discontinuance without prejudice. We shall do so under separate cover via regular mail. We therefore respectfully request that your Honor adjourn the scheduled conference for thirty (30) days to allow for this matter to be discontinued. We are available at your Honor's convenience to discuss this matter.

*Application granted. The conference is rescheduled to October 15, 2004 at 9:45 a.m.*

**SO ORDERED: 9/10/04**

  
 WILLIAM H. PAULEY III U.S.D.J.

Respectfully submitted,

  
 Kevin J. Lennon

KJL/bhs

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